

CRS Report for Congress

.Received through the CRS Web

Ukraine's Orange Revolution and U.S. Policy

Updated July 1, 2005

Steven Woehrel
Specialist in European Affairs
Foreign Affairs, Defense, and Trade Division

Ukraine's Orange Revolution and U.S. Policy

Summary

In January 2005, Viktor Yushchenko became Ukraine's new President, after massive demonstrations helped to overturn the former regime's electoral fraud, in what has been dubbed the "Orange Revolution," after Yushchenko's campaign color. The "Orange Revolution" has sparked a great deal of interest in Congress and elsewhere. Some hope that Ukraine may finally embark on a path of comprehensive reforms and Euro-Atlantic integration after nearly 15 years of half-measures and false starts. Others are interested in the geopolitical implications of a pro-Western Ukraine in the former Soviet region and in relations between Russia and the West. Some analysts detect a new wave of democracy sweeping the post-Soviet region.

Yushchenko has said that his key domestic priorities include reducing the size of the unofficial, "shadow" economy, maintaining macroeconomic stability, and fighting corruption, a major problem in Ukraine. Other critical priorities include improving the independence and effectiveness of the judiciary and attracting foreign investment. Yushchenko has vowed to prosecute those guilty of crimes, including fraud during the election, the 2000 murder of Ukrainian journalist Georgi Gongadze, and an attempt on Yushchenko's life during the campaign, which has left him disfigured. In foreign policy, Ukraine seeks closer ties with the European Union, NATO, and the United States, with the goal of eventual NATO and EU membership. Yushchenko has said that he views Russia as a "strategic partner" of Ukraine, but that integration with the West will supercede Russian-led integration efforts.

The Bush Administration has hailed the "Orange Revolution" as a part of a wave of democratization sweeping the region and the world, and has proposed a modest increase in U.S. aid to Ukraine. Experts believe that prompt U.S. and international assistance may be needed to help the new government to boost public support before crucial March 2006 parliamentary elections. The United States has also expressed hopes that the United States and Ukraine will work together more effectively on such issues as weapons proliferation and trafficking in persons. The Administration has downplayed Yushchenko's decision to honor a campaign pledge to pull Ukraine's troops out of Iraq by the end of this year. President Yushchenko visited the United States on April 4-7.

During the Ukrainian presidential election campaign and during the ensuing electoral crisis, Congress approved legislation calling for free and fair elections in Ukraine and urged the Administration to warn the previous regime of possible negative consequences for Ukraine's leaders and for U.S.-Ukraine ties in the case of electoral fraud. The 109th Congress will consider aid funding for Ukraine, and may take up extending permanent Normal Trade Relations to Ukraine, terminating the application of the Jackson-Vanik amendment to Ukraine, which bars permanent NTR status for countries with non-market economies that do not permit freedom of emigration. This report will be updated as needed. For background on the Orange Revolution, see CRS Report RL32691, *Ukraine's Political Crisis and U.S. Policy Issues*.

Contents

Introduction	1
Ukraine's Priorities	2
Foreign Policy	3
Prospects	6
Potential Obstacles	6
International Obstacles	7
Indicators of Success	8
U.S. Policy	9
Iraq	10
Policy Issues	11
Congressional Response	12
Current Issues	13

Ukraine's Orange Revolution and U.S. Policy

Introduction

Ukraine's "Orange Revolution" has sparked a great deal of interest in Congress and elsewhere. Some hope that Ukraine may finally embark on a path of comprehensive reforms and Euro-Atlantic integration after nearly 15 years of half-measures and false starts. Others are interested in the geopolitical implications of a pro-Western Ukraine in the former Soviet region and in relations between Russia and the West. Some analysts detect a new wave of democracy sweeping the post-Soviet region, from the "Rose Revolution" in Georgia in November 2003-January 2004, to the "Orange Revolution" in November 2004-January 2005, and possibly to the overthrow of the regime in Kyrgyzstan in March 2005.

In 2004, many observers believed that Ukraine was at a key period in its transition that could shape its geopolitical orientation for years to come, in part due to presidential elections held on October 31, November 21, and December 26, 2004. In their view, the elections could move Ukraine closer to either integration in Euro-Atlantic institutions, real democracy and the rule of law, and a genuine free market economy; or they could move Ukraine toward a Russian sphere of influence, with "managed democracy" and an oligarchic economy. For the past decade, Ukraine's political scene had been dominated by President Leonid Kuchma and the oligarchic "clans" (regionally based groups of powerful politicians and businessmen) that supported him. The oligarchs chose Prime Minister Viktor Yanukovich as their candidate to succeed Kuchma as President. The chief opposition candidate, former Prime Minister Viktor Yushchenko, was a pro-reform, pro-Western figure.

International observers criticized the election campaign and the first and second rounds of the election as not free and fair, citing such factors as government-run media bias in favor of Yanukovich, abuse of absentee ballots, barring of opposition representatives from electoral commissions, and inaccurate voter lists. Nevertheless, Yushchenko topped the first round of the vote on October 31 by a razor-thin margin over Yanukovich. Other candidates finished far behind.

After the November 21 runoff between the two top candidates, Ukraine's Central Election Commission proclaimed Yanukovich the winner. Yushchenko's supporters charged that massive fraud had been committed. Hundreds of thousands of Ukrainians demonstrated against the fraud, in what came to be known as the "Orange Revolution," after Yushchenko's chosen campaign color. They blockaded government offices in Kiev and appealed to the Ukrainian Supreme Court to invalidate the vote. The court invalidated the runoff election on December 3, and set a repeat runoff vote on December 26. Yushchenko won the December 26 re-vote,

with 51.99% of the vote to Yanukovych's 44.19%. After several court challenges by Yanukovych were rejected, Yushchenko was inaugurated as President of Ukraine on January 23, 2005. On February 4, 2005, the Ukrainian parliament approved President Yushchenko's appointment of Yulia Tymoshenko as Prime Minister of Ukraine by a vote of 373-0. Tymoshenko is an energetic, charismatic leader with a sometimes combative political style who campaigned effectively on Yushchenko's behalf. She is a controversial figure due in part to her alleged involvement in corrupt schemes as a businesswoman and a government minister during the Kuchma regime.¹

During the campaign, Yushchenko accused the authorities of trying to poison him. On September 6, 2004, he fell seriously ill, shortly after attending a dinner with the chief of the Ukrainian security services. After his condition worsened, he was rushed to the Rudolfinerhaus medical clinic in Austria. Doctors were unable to determine the cause of the illness at the time. Yushchenko soon resumed campaigning, but his face was, and remains, severely pockmarked. On December 11, doctors at Rudolfinerhaus, reportedly with the help of American experts, confirmed that Yushchenko had been poisoned with a massive dose of the toxic substance dioxin. Ukrainian law enforcement officials are investigating the poisoning plot, and say they have developed information on who was behind the plot and who carried it out, but have not disclosed details. Ukrainian officials have hinted that the poison may have come from Russia, although the Ukrainian government has not accused the Russian government of complicity in the plot.

Ukraine's Priorities

President Yushchenko has set an ambitious set of domestic priorities for the new government. Yushchenko has said that his key domestic priorities include reducing the size of the unofficial, "shadow" economy, especially by reducing taxes and eliminating loopholes and exemptions for favored businesses. Another key goal is to maintain macroeconomic stability, although this effort may be challenged by campaign promises to increase social spending. Yushchenko has pledged to fight corruption, a critical problem in Ukraine, including through administration and civil service reforms. Other priorities include improving the independence and effectiveness of the judiciary; and attracting foreign investment.² Yushchenko has vowed to prosecute those guilty of crimes, including fraud during the election, the 2000 murder of Ukrainian journalist Georgi Gongadze, and the attempt on Yushchenko's own life.

Yushchenko has said that he does not envision wholesale reversal of the sometimes dubious privatization deals of the past 15 years (a possible relief to some oligarchs) but that he will revisit highly questionable privatizations that have occurred in recent years, which he has estimated at about 20-30 firms. In addition,

¹ For more background on the Ukrainian presidential election, see CRS Report RL32691, *Ukraine's Political Crisis and U.S. Policy Issues*, by Steven Woehrel.

² Text of President Yushchenko's speech to the World Economic Forum, Ukrainian TV Kanal 5, as carried by the BBC Monitoring Service, January 28, 2005.

he has raised the possibility that current owners could keep the companies, if they paid the government an additional amount to make up the difference between the fair market price of the firm and what they originally paid for it. One privatization, the huge Kryvrihstal steel works, has already been overturned. According to press reports, international steel companies, including U.S. Steel and Russian firms, may be interested in bidding on the firm if it is re-privatized. However, Prime Minister Tymoshenko has resisted limiting the number of deals under investigation and has launched a much broader inquiry that could involve hundreds or even thousands of firms.

Western observers have expressed concern that the current uncertainty over privatization and other government policies is having an unsettling effect on Ukraine's investment climate. Efforts to overturn previous privatizations could result in lengthy court battles. In addition, potential long-term investors could fear that their property could be expropriated if politically-determined "rules of the game" are changed once again in the future, instead of firmly establishing the rule of law. Some Western observers are also concerned that the government seems focused on boosting tax collection to pay for increased social spending promised during the campaign rather than on reforms that would attract more foreign investment. Indeed, such efforts, undertaken without consultation with investors and in the hands of corrupt bureaucrats, could actually discourage investment, they say.

Foreign Policy

Yushchenko's main foreign policy priority is expanding ties with the EU, seeking EU designation as a market economy as a first step. After Ukraine receives World Trade Organization membership, which Yushchenko wishes to achieve by the end of 2005, Ukraine will seek a free trade zone with the EU, and by 2007 start talks on EU membership, an objective Yushchenko believes can be achieved within a decade. However, EU officials have tried to downplay the chances for Ukrainian membership in the EU, instead calling for practical steps to improve relations within the context of the EU's European Neighborhood policy, which could include EU designation as a market economy, assistance for Ukraine's WTO candidacy, a feasibility study for an EU-Ukraine free trade area, and other forms of assistance.

President Yushchenko has said that he favors eventual Ukrainian membership in NATO. The Kuchma regime, at least until the presidential election campaign, when it recanted under alleged Russian pressure, claimed to seek membership in the Alliance, and the United States expressed support for Ukraine's aspirations. NATO and Ukraine formed a NATO-Ukraine Commission to foster cooperation. In 2002, the two sides developed a NATO-Ukraine Action Plan to outline goals and objectives for political and military reform in Ukraine. However, Ukraine's lack of progress on reforms under Kuchma made such efforts largely ineffective. In April 2005, NATO launched an "Intensified Dialogue" with Ukraine on its membership aspirations and relevant reforms, without however committing the Alliance to any decision on membership. Ukraine's Foreign Minister Boris Tarasyuk has said that Ukraine could be ready to join NATO as early as 2008. Other observers are more skeptical, noting that Ukraine faces serious challenges in reforming its armed forces and security sector, not to mention the broader tasks of political and economic reform. Moreover,

some members of the government, including those with economic ties to Russia, are skeptical or opposed to NATO membership for Ukraine.

President Yushchenko has noted that another obstacle to Ukraine's possible NATO membership is a lack of public support at present. According to a June 2005 poll by the Razumkov Center for Economic and Political Research and the Kyiv International Institute of Sociology, 56.7% of those polls were opposed to NATO membership for Ukraine, while only 22.4% supported the idea. Ukrainian officials believe an extensive public information effort will be needed to strip away misinformation and Soviet-era prejudices toward the Alliance. Some observers have speculated that a stronger push for NATO membership may have to wait until after the March 2006 elections, in order to avoid giving the government's opponents a campaign issue, particularly in eastern Ukraine, where pro-Russian sentiments are strong.³ Yushchenko has tried to allay public concerns by saying any future decision to join NATO would be put to a national referendum first.

Despite Russia's strong support for his opponent during the campaign, Yushchenko has said that he favors good relations with Russia. In his first foreign visit as President, Yushchenko held meetings with Russian President Vladimir Putin in Moscow on January 24. Yushchenko called Russia a permanent strategic partner of Ukraine, but insisted that he will subordinate participation in the Russian-led Single Economic Space (SES) and the Commonwealth of Independent States to his goal of Euro-Atlantic integration. Specifically, Ukrainian leaders have said that they may consider a free trade zone within the SES, but not a customs union or a currency union.

Russian observers have expressed concern about how Ukraine's new European orientation and privatization plans will affect bilateral economic ties. About 90% of Ukraine's oil and 80% of its natural gas supplies come from Russia, and a substantial portion of the rest is transported through Russia. Russia is also Ukraine's largest export market, absorbing 18% of Ukraine's exports in 2003. 78% of Russia's lucrative natural gas exports to Western Europe transit Ukraine.⁴ Russia and Ukraine have established a joint consortium to supply Western Europe with gas, but Ukraine is seeking to include western European firms as well. Russian businessmen could see advantages in a more favorable climate for foreign investment in Ukraine. Ukrainian officials have assured Russia that Ukraine's NATO aspirations would not affect the status of the Russian Black Sea Fleet in Ukraine, which holds a lease there through 2017.

One possible area of controversy between Moscow and Kiev could be policy toward post-Soviet countries. Moscow may be uneasy about Ukraine's possibly more active role in the GUAM group of countries (an acronym based on the countries forming it: Georgia, Ukraine, Azerbaijan and Moldova). Although having widely varying political and economic conditions, these countries have in common a desire

³ Discussions with Ukrainian experts, February 2005.

⁴ "EIA Country Analysis Brief: Ukraine," January 2005, Department of Energy website, [<http://www.eia.doe.gov/emeu/cabs/ukraine.html>].

to maintain their sovereignty that they sometimes see threatened by Russia and the Russian-dominated CIS.

One particular area in which these countries could work together is diversification of sources of energy and the pipelines needed to transport that energy. Ukraine is currently studying how to move forward with a plan to extend into Poland an oil pipeline that currently runs from an oil terminal at the port of Odesa to the town of Brody. The Odesa-Brody pipeline could be used to transport Caspian Sea oil through Georgia, across the Black Sea in tankers to the Odesa-Brody pipeline and into Western Europe, thereby reducing dependence on Russian oil, and reducing Russia's control of regional pipelines. However, due to a decision of the previous government, the pipeline currently runs in "reverse mode," transporting Russian oil to the Odesa terminal and out to the Mediterranean Sea. The new government faces problems in restoring the pipeline's originally planned direction, including a lack of oil supplies to fill the pipeline, and Russian pressure on Ukraine and on potential oil suppliers such as Kazakhstan, aimed at thwarting the project.

Ukraine's new government supports Moldova's desire to reintegrate its breakaway Transnistria region. In May 2005, Ukraine offered a peace plan for Moldova that called for internationally monitored elections in Transnistria and for Transnistria's autonomy within Moldova. Moldova welcomed Kiev's initiative in principle but reacted cautiously to some of its details and omissions, noting for example that it does not mention the need for a Russian troop withdrawal from Moldova. Perhaps as importantly, Ukraine has promised to crack down on the lucrative, often illegal trade between Ukraine and Transnistria. This could put heavy pressure on the Transnistria leadership, perhaps making a negotiated settlement more likely. Russia would likely view Ukraine's stance as an effort to undermine Moscow's influence in Transnistria.

Another potential problem for Russian-Ukrainian relations is the fear expressed by some Russian observers that Ukraine may try to "export" its democratic revolution to other countries in the region, including Belarus and even Russia itself. Although Ukrainian leaders deny such intentions, Ukrainian NGOs that played an important role in the Orange Revolution, including the youth group "Pora" have expressed such goals. Moreover, the very existence of a successful democratic revolution could raise expectations in other CIS countries, particularly if Ukraine's reforms result in greater prosperity for Ukrainians. The fear of a "color revolution" in Belarus has led Belarusian dictator Aleksandr Lukashenko to intensify a crackdown on opponents, independent media, and NGOs. He has also put in place Soviet-style policies to reduce contacts between Belarusians and foreigners who could "contaminate" them with democratic ideas.

Prospects

Ukraine's new leaders have several things in their favor in their efforts to reform Ukraine and move it closer to the West. Ukraine's new leadership has many competent figures, is fairly young, and highly motivated. Yushchenko enjoys strong public support at present. The former regime's supporters have been thrown into disarray by their unexpected defeat, and many of them appear to be currying favor with the new regime. With the exception of the Communist Party, which has declined in importance since independence, the opposition does not have a set of principles to provide cohesion. Ukraine is also benefitting from substantial goodwill from the United States and other Western countries, in marked contrast to the former regime, which had isolated itself from West by its actions and had become more dependent on Russia.

Potential Obstacles

However, Ukraine faces many obstacles as well. Many of its goals, such as rooting out corruption, may be easy to proclaim but very difficult to achieve. It is possible that some in the new leadership, many of whom served in the old regime, may be tempted to engage in corruption and use that regime's quasi-authoritarian methods. A related issue is whether those businessmen who supported the "Orange Revolution" will expect to become the "new oligarchs" of Ukraine, and, if so, what impact a possible struggle between "old" and "new" oligarchs over Ukraine's economic resources will have on reform efforts.

Yushchenko has formed a center-right pro-presidential bloc called People's Union-Our Ukraine. People's Union-Our Ukraine is in a loose coalition with other groups, including the Yulia Tymoshenko Bloc, the centrist Party of Industrialists and Entrepreneurs (led by First Deputy Prime Minister Anatoli Kinakh), the centrist People's Party (headed by parliament chairman Volodymyr Lytvyn), and the leftist Socialist Party. Reforms have been slowed as much by dissension within the coalition than effective opposition by the Communists and supporters of oligarchs from eastern Ukraine. Personal and policy conflicts among coalition partners have led to confusion over the government's policies on many issues, including such fundamental ones as the proper amount of government control over the economy.

Key legislation needed for Ukraine's admission to the World Trade Organization (including legislation to fight Ukraine's severe optical media piracy problem) has been voted down by the parliament, including by some members of Yushchenko's own People's Union-Our Ukraine group, putting Yushchenko's goal of joining the WTO in 2005 in jeopardy. Some Ukrainian and Western observers have complained that part of the problem is that President Yushchenko has not exercised consistent discipline and leadership over the government and parliament to push needed legislation through and to ensure coherent government policies. Other observers note that the new government has been in place only a few months, and that these problems could be eased after the March 2006 parliamentary elections, when a still-popular Yushchenko may be able to form a more homogenous majority in parliament.

Regional differences in Ukraine may present another problem. Ukrainian officials have sharply warned leaders in eastern Ukraine that any talk of separatism would be severely punished. Yushchenko's electoral support was overwhelmingly concentrated in western and central Ukraine. Due in part to the previous regime's propaganda that attempted to portray Yushchenko as anti-Russian and an extreme nationalist, even as a Nazi, the new government may face a challenge in gaining the support of people in eastern and southern Ukraine. In contrast to setbacks on some reform issues, the new government has moved more quickly to replace loyalists of the old regime in public posts, particularly in eastern Ukraine. Moreover, Ukrainian prosecutors have arrested several leading figures of the old regime for various crimes, ranging from extortion to electoral fraud to fomenting separatism. Many of these people are closely associated with the Donetsk region and Yanukovich. Reprivatization could also lead to a large-scale redistribution of property from oligarchs in eastern Ukraine to those supporting Yushchenko.

Efforts by Yanukovich and others to characterize these actions as political repression and create massive public support for themselves in eastern Ukraine have so far failed. Nevertheless, the government remains more popular in western Ukraine than in the east. In a June 2005 poll taken by Razumkov Center for Economic and Political Research and the Kyiv International Institute of Sociology, in western Ukraine, 54.9% strongly supported Yushchenko's actions as president (55.4% felt the same way about Prime Minister Tymoshenko), while the corresponding figures in eastern Ukraine were 18.9% for Yushchenko and 7.5% for Tymoshenko. This may be because some people from eastern and southern Ukraine may fear a transfer of economic resources from their regions, which they view as more productive, to poorer regions in western Ukraine. Also, Yushchenko's opponents could play on fears that the new government will pressure people in eastern Ukraine, which is overwhelmingly Russian-speaking, to speak Ukrainian. Ukrainian officials have assured people in eastern Ukraine that no efforts would be made to force use of the Ukrainian language on people in their region, for example by shutting down Russian-language schools and media.

There is also the possible impact of the constitutional changes approved by the Ukrainian parliament in December 2004 as part of a political compromise to end Ukraine's political crisis. The reforms, which will reduce the powers of the presidency, which will go into effect in September 2005 if a new law on local government is passed and in January 2006 if it is not. Under the reform, the Cabinet of Ministers will be the supreme executive body in Ukraine. The President will have the power to nominate the prime minister, the foreign minister, and the defense minister, subject to the approval of parliament. The rest of the government will be nominated by the prime minister and approved by the parliament. It is possible that these changes could be struck down as a result of legal challenges. However, if the reforms go into force, they will make the results of the March 2006 parliamentary elections even more important.

International Obstacles. Ukraine could also face important international obstacles. Perhaps the most important is Russia's policy. It is unclear whether Russia will genuinely treat Ukraine as an equal, instead of attempting to pressure or punish the new leadership. Russia could attempt to manipulate Ukraine's heavy dependence on Russian energy. However, as in the past, Russia's leverage is somewhat limited

by Ukraine's control of the main pipelines for Russian energy exports to Western Europe.

Some analysts point to several recent incidents that could indicate that Russia may be trying to pressure Kiev by playing the energy card. In April 2005, gasoline prices rose sharply in Ukraine. Prime Minister Tymoshenko accused Russian energy firms, which control not only most of Ukraine's crude oil supplies but also its oil refineries and filling stations, of abusing their market position. She imposed price controls and called for greater government control of Ukraine's energy sector. The Russian firms responded by cutting off gas supplies. President Yushchenko stepped in, sharply criticized Tymoshenko for her non-market approach to the problem and reached a compromise with the Russian firms. In another case, the Russian natural gas giant, Gazprom, has called for large increases in the price of gas to be supplied to Ukraine in 2006 and has accused Ukraine of a massive theft of Russian gas. Sharply increased energy prices could have a negative impact on Ukraine's economy. The Ukrainian government has responded to the problem by trying to diversify its supplies of oil and natural gas through negotiating deals with Turkmenistan, Kazakhstan and Iran, among other countries.

Another way Russia could attempt to "punish" Kiev could be to bolster "pro-Russian" opposition forces in eastern and southern Ukraine. However, it should be noted that Russia has in the past tried to play upon regional differences in Ukraine, most recently during the presidential elections, without success. Ukraine's reform efforts might be hampered if Western countries do not provide timely and effective assistance, which could come in the form of political support, economic aid, lower trade barriers, and support for WTO membership.

Indicators of Success

One indicator of success will be if Ukraine experiences a substantial increase in foreign investment. This would indicate that investors are happier with Ukraine's progress in such areas of perennial concern as fighting corruption, reducing red tape, and enforcing the rule of law. Perhaps a more important indicator from the point of view of the majority of Ukraine's population would be an increase in living standards and a decrease in poverty. In recent years, Ukraine has experienced high levels of economic growth, but the benefits of that growth have not reached all sectors of the population. International observers may closely monitor the March 2006 parliamentary election campaign for signs of media access for opposition candidates, improved election laws and administration, and other signs of free and fair elections.

In the longer term, Ukraine's foreign policy success may be measured by whether it receives a signal from the EU that it can be considered a candidate for eventual EU membership, and a similar signal from NATO, perhaps in the form of a Membership Action Plan. However, it should be noted that success in these areas depends as much or more on such issues as intra-EU politics, trans-Atlantic ties, and perceptions of Russia's future, as on Ukraine's own efforts. France, Germany, and other EU countries stress the importance of maintaining good relations with Moscow, in order to preserve regional stability and economic ties with Russia. In addition, possible membership for Ukraine poses difficult problems of its own for the EU, which is struggling to incorporate ten recently admitted members, as well as possible

future new members in Turkey and the Balkans. On the other hand, many of the EU's new members in central Europe, especially Poland and the Baltic states, are looking to counterbalance Russia and stabilize their eastern borders. They continue to push strongly for one day incorporating Ukraine, and possibly other post-Soviet countries, into the EU. If Ukraine becomes discouraged about the prospects for joining the EU, due to the EU's current difficulties, it is possible Kiev could push more strongly for NATO membership in a bid to show tangible gains in its Euro-Atlantic integration efforts.

U.S. Policy

U.S. officials supported the "Orange Revolution" in Ukraine, warning the former regime of negative consequences if it engaged in fraud, sharply criticizing fraud in the November 21 runoff vote, and hailing Yushchenko's ultimate victory. The United States also provided assistance to Ukrainian non-governmental organizations that monitored the election and conducted exit polls to detect fraud.⁵ In a show of support for the new leadership, President Bush and other NATO leaders met President Yushchenko at a NATO summit on February 22, 2005. President Yushchenko visited the United States from April 4-7, and had meetings with President Bush and Secretary of State Rice. Yushchenko's address to a joint session of Congress on April 6 was interrupted by several standing ovations.

The two leaders signed a joint statement that hailed Ukraine's democratic revolution and said the two countries would work to spread freedom in the region, as well as throughout Europe and beyond, including in Belarus and Cuba. It restates the long-standing U.S. policy goal of a democratic, secure Ukraine integrated in European and Euro-Atlantic institutions. In the statement, the United States pledged its assistance to help Ukraine make the necessary reforms to join the WTO in 2005 and its support for Ukraine's NATO aspirations. The Administration also called for "immediately" ending the application of the Jackson-Vanik amendment to Ukraine. The two sides will establish an "energy dialogue" to help Ukraine achieve greater energy independence. The statement underlines the cooperation of the two sides to fight terrorism and weapons proliferation, especially in ballistic missiles, an area in which Ukraine is a world leader. In the statement, the United States pledges to help Kiev fight AIDS/HIV, a serious problem in Ukraine, and to provide an additional \$45 million to the Chernobyl Shelter Fund, which collects funds to repair the protective shelter over the reactor destroyed in the 1986 nuclear accident.

Current U.S. aid levels for Ukraine are relatively modest. According to the FY2006 budget submitted by the President, Ukraine will receive an estimated \$93.5 million in U.S. aid in FY2005. The Administration proposed \$115.9 million in aid for Ukraine in FY2006. The President sought an additional \$60 million to aid reform in Ukraine in an Iraq/Afghanistan FY2005 supplemental appropriations request. U.S. aid is focused on anti-corruption and rule of law efforts, media and NGO development, and election monitoring and other democracy-building programs. The United States also seeks to increase exchange programs between the two countries.

⁵ For background, CRS Report RL32691, *Ukraine's Political Crisis and U.S. Policy Issues*.

As noted in the April 2005 Bush-Yushchenko joint statement, the United States will be interested in seeing how the new government tackles such issues as weapons proliferation and human trafficking. During the Kuchma era, several arms trafficking scandals damaged Ukraine's international reputation. In September 2002, the Administration announced that it had authenticated a conversation taped in Kuchma's office in July 2000, in which Kuchma gave approval for the sale of four Kolchuga early warning radar systems to Iraq, a sale banned by a U.N. Security Council arms embargo. The Yushchenko government has recently opened investigations into other arms sales, including the sale of 18 nuclear-capable long-range cruise missiles to Iran and China in 1999-2000. The United States is leading a NATO effort to help Ukraine destroy its vast stocks of obsolete small arms and man-portable surface-to-air missiles.

The 2005 State Department Trafficking in Persons report says that Ukraine is a source country for women and girls trafficked for purposes of sexual exploitation. The report designates Ukraine as a "Tier 2" country, which means that it does not comply with minimum standards for the elimination of trafficking, but is making "significant efforts" to do so. The report says Ukraine has increased the number of prosecutions and convictions of traffickers, but that shortcomings exist in several areas, including government corruption. The report notes that the new government aims to improve Ukraine's performance on this issue. The report recommends that Ukraine "create a special witness protection program for trafficking victims, expand the legal definition of trafficking to conform with international requirements, ensure the appropriation of consistent resources for the anti-trafficking unit, and conduct sensitivity training to reduce victim blaming and breaches of victim confidentiality."

Iraq

A key issue for U.S. policymakers is the withdrawal of Ukrainian troops from Iraq. U.S. officials said during 2004 that Ukraine's contribution of over 1,600 troops, while appreciated, would not cause the United States to overlook Ukraine's democratic shortcomings during the presidential elections. However, some observers were concerned that the leaders of the former regime were hoping that the United States would downplay election irregularities if Ukraine continued its troop deployment in Iraq. During the campaign, Yushchenko pledged to quickly withdraw the troops if elected, while Yanukovich supported the deployment, but raised the possibility that a continued deployment could be conditioned on such factors as the granting of more reconstruction contracts in Iraq to Ukrainian firms.

After taking office, President Yushchenko confirmed that he would pull Ukraine's troops out of Iraq after consultation with other Iraq coalition members and the Iraqi government. On March 11, 2005, over 130 Ukrainian troops were withdrawn from Iraq. A further 550 left Iraq in May, and the remaining troops will be withdrawn by the end of the year. The Administration has downplayed the significance of the Ukrainian withdrawal. After an April 4 meeting with President Yushchenko, President Bush said that Yushchenko was "fulfilling a campaign

pledge. I fully understand that. But he also has said that he's going to cooperate with the coalition in terms of further withdrawals, and I appreciate that."⁶

Policy Issues

One important issue for U.S. policy will be whether to take additional steps to help Ukraine. Many analysts say that the United States could provide additional support to Ukraine, for example by helping it obtain loans from international financial institutions for its reform plans. Ukraine's trade with the United States could be enhanced if the Department of Commerce determined Ukraine to be a market economy in the near future.⁷ Some experts have said that Ukraine should receive funding under the Millennium Challenge Account when it qualifies for such assistance. Finally, some observers have suggested that leading Western countries should hold an aid donor conference this year in order to seek aid pledges and coordinate assistance efforts. In addition, U.S. assistance tailored to Yushchenko's near-term agenda, and similar support from the EU, could be important to consolidating the gains of democratic forces in Ukraine in the run-up to the March 2006 parliamentary elections.

Another potential issue is how or whether to deal with perceptions among some observers in the United States and elsewhere that the reform process in Ukraine is in a state of drift, particularly on economic reform. U.S. officials have praised the Yushchenko government as a beacon of democracy and reform and have appeared cautious about offering public criticism, perhaps because the government is only a few months old and perhaps for fear of undermining it. However, some observers argue that a more frank approach, expressed by high-level officials, could be useful to help nudge the reforms forward.

A third issue is whether the United States should strongly signal support for Ukraine's NATO aspirations. If the United States decided to make such a move, it would likely also have to cope with Moscow's strident opposition, as well as tension with several European NATO allies more eager to accommodate Moscow on the issue. At present, Administration officials are approaching the issue of NATO membership for Ukraine with some caution. They have called on Ukraine to focus on implementing its current Action Plan with NATO. During an April 4 press conference with Yushchenko, President Bush said, "I'm a supporter of Ukraine becoming a member of NATO. I think it's important." But he cautioned that Ukraine's NATO membership "is not a given," noting that Ukraine has to make reforms before it can join the Alliance.⁸

⁶ Federal Document Clearing House transcript of President' Bush's press conference with President Yushchenko, April 4, 2005.

⁷ One possible stumbling block is Ukraine's record on intellectual property rights. In 2001, the United States withdrew Ukraine's benefits under the Generalized System of Preference, due to rampant optical media piracy. Although the U.S. Trade Representative has reported that Ukraine's record has improved on this issue, extremely high levels of piracy continued in 2004, according to the USTR.

⁸ Transcript of President Bush's press conference with President Yushchenko, April 4, 2005, (continued...)

There is also the issue of the impact of Ukraine's political crisis on the bilateral relationship between the United States and Russia. Some Russian observers have viewed the "Orange Revolution" as an American-engineered humiliation of and threat to Russia, as well as a part of a geopolitical offensive against Russian interests in the region. Administration officials have tried to avoid confrontation with Moscow on the issue, saying that the United States is only interested in promoting democracy in the region and throughout the world. However, such assurances may be of little comfort to Russian elites, who may fear greater democracy could undermine their power at home and abroad, and to the Russian public, much of which views Ukraine as inseparable from Russia.⁹

Congressional Response

During the Ukrainian presidential election campaign and during the ensuing electoral crisis, the 108th Congress approved legislation calling for free and fair elections in Ukraine and urged the Administration to warn Ukraine of possible negative consequences for Ukraine's leaders and for U.S.-Ukraine ties in the case of electoral fraud. On July 22, 2004, the Senate passed S. Con. Res. 106 by unanimous consent. The resolution noted the violations against OSCE standards for free and fair elections that took place during the Ukrainian election campaign. The resolution pledged Congress's support for Ukraine's establishment of democracy, free markets, and a place in the Western community of democracies. H.Con.Res. 415 was passed by the House on October 4. It was identical to S.Con.Res. 106, except that it added two clauses that "strongly encourage" the President to fully employ U.S. government resources to ensure a free and fair election and to stress to the Ukrainian government that the conduct of the elections would be "a central factor in determining the future relationship between the two countries." On November 18, 2004, just before the second round of the election, the Senate passed S.Res. 473 by unanimous consent. As in the case of H.Con.Res. 415, it warned Ukrainian leaders against conducting a fraudulent election. However, it went further than H.Con.Res. 415 in that it "strongly encourages" the Administration to impose sanctions against persons encouraging or participating in fraud.

Senator Richard Lugar, chairman of the Senate Foreign Relations Committee, monitored the November 21, 2004 runoff at the request of President Bush. He said after the vote that "it is now apparent that there was a concerted and forceful program of election day fraud and abuse enacted with the leadership or cooperation of the authorities." Senator Lugar said that he had carried a letter from President Bush to President Kuchma that warned that a "tarnished election" will cause the United States to "review" its relations with Ukraine. Senator Lugar stressed that Kuchma "has the

⁸ (...continued)
from the White House website, [<http://www.whitehouse.gov>].

⁹ Jamestown Foundation, *Eurasia Daily Monitor*, Vol. 1, Issue 145, December 13, 2004.

responsibility and the opportunity for producing even at this point an outcome which is fair and responsible.”¹⁰

The 109th Congress passed resolutions after President Yushchenko was inaugurated. On January 25, 2005, the House passed H.Con.Res. 16, and the Senate passed S.Con.Res. 7 on the 26th. The identical resolutions include clauses congratulating Ukraine for its commitment to democracy and its resolution of its political crisis in a peaceful manner; congratulating Yushchenko on his victory; applauding the candidates, the EU and other European organizations and the U.S. Government for helping to find that peaceful solution; and pledging U.S. help for Ukraine’s efforts to develop democracy, a free market economy, and integrate into the international community of democracies.

Current Issues

If the “Orange Revolution” continues to show progress, Congress could consider further legislation on Ukraine, including ending the application of the Jackson-Vanik amendment to Ukraine. The Jackson-Vanik amendment bars permanent normal trade relations (PNTR) status for countries with non-market economies that do not permit freedom of emigration. The amendment was originally intended to pressure the Soviet Union to permit Jewish emigration. The success of legislation on granting permanent NTR status may depend on issues not directly related to the provisions of Jackson-Vanik, such as the assessment of Ukraine’s efforts in fighting anti-Semitism and returning communal property to Jewish groups. Ukraine currently enjoys NTR status, subject to annual determinations by the President that it permits free emigration. PNTR and U.S. support for WTO membership for Ukraine may also be held up by intellectual property rights concerns, high Ukrainian agricultural tariffs, and other trade disputes.

Several bills have been introduced that would authorize the President to grant Ukraine PNTR status. Three bills — H.R. 1053, offered by Representative Gerlach; H.R. 885, introduced by Representative Hyde; and S. 410 (identical to H.R. 885), offered by Senator McCain — would authorize the President to determine that Jackson-Vanik would no longer apply to Ukraine and to grant permanent normal trade relations status to Ukraine. S. 46, sponsored by Senator Levin, and H.R. 1170, sponsored by Representative Levin, would also terminate Jackson-Vanik for Ukraine but add other provisions. These include affirming that the United States retains the right to impose safeguard measures against import surges from Ukraine and that Congress may express its view that a U.S.-Ukrainian bilateral agreement on conditions of Ukraine’s accession to the WTO “does not adequately advance the interests of the United States.”¹¹

Congress also faces the issue of U.S. aid to the new government in Ukraine. On March 16, the House approved H.R. 1268, the Iraq/Afghanistan supplemental appropriations bill. The bill reduced the Administration’s \$60 million request for

¹⁰ Text of statement from Sen. Lugar’s website, [<http://lugar.senate.gov>].

¹¹ See CRS Report RS22114, Permanent Normal Trade Relations (PNTR) Status for Ukraine and U.S.-Ukrainian Economic Ties, by William Cooper..

Ukraine to \$33.7 million. In its report (H.Rept. 109-16), the House Appropriations Committee “lauds the democratic initiative of the Ukrainian people and intends this funding to be used for projects that will quickly show support for the Yushchenko government, as well as for costs associated with supporting the upcoming parliamentary elections.” The report did not address why the Committee had decided to reduce the President’s request for Ukraine, but the Committee criticized the request in general for containing items that did not constitute true emergencies, which therefore should be handled in the regular appropriations process. However, the Senate restored the \$60 million in its version of the bill. The conference version of the bill, signed by President Bush on May 11, 2005 (P.L. 109-13), also contained \$60 million for Ukraine.

On June 28, the House passed H.R. 3057, the FY2006 foreign aid appropriations bill. The bill provides no earmark for Ukraine and provides \$477 million for the former Soviet countries as a whole. This amount is \$5 million below the President’s request and \$78.5 million below the FY2005 aid amount. The report accompanying the bill says the Committee “strongly supports” President Yushchenko’s reform efforts. Another bill, H.Res. 44, calls for a staff exchange program between the House of Representatives and the Ukrainian parliament.